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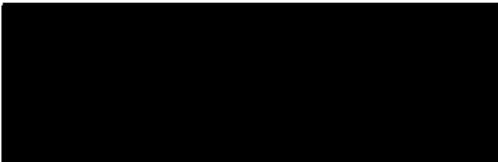
JENNIFER D. VIDIS
Executive Director

COO K COUNTY BOARD OF ETHICS

118 North Clark Street, Room 1000
Chicago, Illinois 60602

(312) 603-4304
FAX (312) 603-3760 T.D.D. (312) 443-5255

December 17, 1998



Re: 98 A 0010 Receiving Gifts\Appearance of Impropriety

Dear [REDACTED]:

This letter is in response to your request for an advisory opinion on the above referenced matter.

FACTS

[REDACTED] the Director [REDACTED] for Cook County has been asked by Dental Network of America (DNoA) to be a member of their Advisory Committee. DNoA has been the County dental provider since June 1, 1995.

As the Director [REDACTED] coordinates and administers the Cook County and Forest Preserve comprehensive employee benefit programs for all 27,500 employees and their 38,000 eligible dependents. These programs include 5 health plans, 3 life plans, dental and vision plan, 2 flexible spending accounts and unemployment insurance for corporate employees and health claims for prisoners while in the custody of Cook County Jail. She supervises 6 employees that are involved with health care benefits. [REDACTED] reports directly to the Risk Manager and prepares reports on these programs for the Director of Risk Management to be used for budgetary purposes, negotiations and evaluation of benefit proposals and she advises the Risk Manager in relation to the County's benefits programs.

The Department of Risk Management will send out a request for proposals (RFP) on the dental plan in the Spring of 1999. [REDACTED] has not been involved in the

preparation of RFPs for the last couple of years and does not review proposals or get involved with the decision making process for new providers.

The primary responsibilities of a Dental Advisory Committee for DNoA would be to provide a forum for an exchange of ideas between the company and its dental providers. DNoA compensates Advisory Committee members for all reasonable costs related to their attendance meetings if they are not compensated by any other source. Therefore DNoA, only will compensate [REDACTED] for travel expenses incurred.

ISSUES

1. Can [REDACTED] accept the invitation to serve on the Advisory Committee for DNoA without violating the Cook County Ethics Ordinance?
2. Can [REDACTED] attend Committee meeting(s) during the dental plan's Rep process and contract award period?

APPLICABLE SECTIONS OF THE ETHICS ORDINANCE

PREAMBLE

...

WHEREAS, Public Officials and Employees serve their government in a fiduciary capacity, and must act at all time to avoid conflicts of interest, impropriety, or even the appearance of impropriety....

DEFINITIONS

Whenever used in this Ordinance, the following terms shall have the following meanings:

...

- (d) "County" means the County of Cook and all government agencies of the County of Cook.

...

- (e) "Compensation" means money, thing of value or other pecuniary benefit received or to be received in return for, or as reimbursement for, services rendered or to be rendered.

...

- (l) "Official" means any elected Cook County official or any appointed non-employee member of any agency of Cook County.

...

- (m) "Person" means any individual, entity, corporation, partnership, firm, association, union, trust estate, as well as any parent or subsidiary of any of the foregoing, and whether or not operated for profit.

ARTICLE II

CODE OF CONDUCT

...

2.4 Receiving and Soliciting Gifts and Favors

...

- (a) Except as prohibited in subsections (a) and (b), nothing in this Section 2.4 shall prohibit any Person from giving or receiving:

...

- (iv) reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with public events, appearances or ceremonies related to official County business, if furnished by the sponsor of such public event.

- (f) Any and all gifts or money received by and Official or Employee for participating in speaking engagements, lectures, debates or organized discussion forums arising out of his or her County employment shall be disclosed to the Board on the appropriate Disclosure Form as described in 2.4(e) within ten (10) business days of receipt.

2.5 Solicitation or Receipt of Money for Advice or Assistance.

- (a) No Official or Employee, or their spouse or minor child shall knowingly solicit or accept any money or other thing of value including, but not limited to, alleged Gifts, favors, services or promises of future employment, in return for

advice or assistance on matters concerning the operation or business of the County,....

(b) Except as prohibited in subsections (a), nothing in this Section 2.5 shall prohibit any Person from giving or receiving:

...

(iv) reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with public events, appearances or ceremonies related to official County business, if furnished by the sponsor of such public event.

DISCUSSION

██████████ may accept the invitation to serve on the Advisory Committee of the DNoA without violating the Ethics Ordinance.

The Preamble of the Ethics Ordinance states in part, that "Public Officials and Employees...must act at all times to avoid conflicts of interest, impropriety, or even the appearance of impropriety." Within the County, most contracts are awarded to the "lowest responsible bidder" by means of a competitive bidding process whereby public notice enables any Person to learn of and bid on a contract. This process helps to ensure absolute fairness in the awarding of a contract and is the process used in determining health care providers. In addition, ██████████ has stated that she has not recently been involved in the preparation of RFPs, nor does she review proposals or get involved with the decisions making process for health care providers. Therefore, the Board agreed that it is unlikely that ██████████ serving on the Advisory Committee for DNoA will have the appearance of impropriety even during the period of time that the dental REP process starts to the time that the new dental contract is awarded.

Section 2.4 (c) (iv) provides that reasonable hosing including travel and expenses in connection with public events and related to official County business, if furnished by the sponsor of such public event may be accepted. Serving on the Advisory Committee is related to ██████████ official County duties since as the Director of Employee Benefits she is considered an expert in the insurance field. There is great benefit to the County in allowing ██████████ to participate in active discussion and to have input regarding problems, solutions and ideas with the dental provider which may result in improved quality of service to County employees. Also, since DNoA is the sponsor of the meetings and according to DNoA description the Advisory Committee's members include

representatives from different areas who are experts in the field of dentistry and managed care programs, the Board has agreed that the Committee meetings can be considered a public event and [REDACTED] may accept travel reimbursement without violating the provisions of the Ordinance.

Section 2.4(f) of the Ethics Ordinance states that any and all gifts or money received by any official or employee for participating in speaking engagements, lectures, debates or organized discussion forums shall be disclosed to the Board by the recipient within ten (10) business days of receipt. In this instance [REDACTED] will be reimbursed for travel expenses only, however, should the expenses incurred exceed the \$50.00 gift limit for one meeting or an aggregate of \$125.00 within a year, that information needs to be disclosed and [REDACTED] is reminded that the appropriate form must be submitted to the Ethics Board within 10 business days of receipt.

Section 2.5 provides that no Official or Employee, ... shall knowingly solicit or accept any money or other thing of value ... in return for advice or assistance on matters concerning the operation or business of the County. [REDACTED] will be offering advice to the dental provider to improve or enhance the County's dental benefits however, travel reimbursement cannot be considered as accepting money and therefore Section 2.5 does not apply.

We hope this opinion addresses your concerns. The Board thanks you for your inquiry and commends you for your conscientious in seeking to uphold the guiding principals of the Ethics Ordinance. Under the Rules and Regulations of the Cook County Ethics Ordinance, all requests for reconsideration of an advisory opinion must be filed within fifteen days of receipt of the opinion. Please do not hesitate to contact our office if you have additional questions or require additional information.

The above referenced Advisory Opinion was unanimously adopted on January 21, 1999 at the duly authorized Board Meeting of the Cook County Board of Ethics.

Sincerely,

COOK COUNTY BOARD OF ETHICS

John P. Pikarski, Jr.

jpm

98A0010 [REDACTED] gift/inf